

REMARKS

Applicant would like to thank the Examiner for the thorough consideration given to the present application and the courtesies extended to applicant's representative during a telephone interview on October 5, 2005. During that interview, the Examiner indicated that the arguments as set forth below would overcome each of the rejections in the outstanding Office Action. Thus, Claims 1-46 remain pending in the application. In addition, minor amendments have been made to the specification and claims to overcome the objections to the specification and rejections of the claims under 35 U.S.C. § 101 and 112. The amendments to the claims contained herein are of equivalent scope as originally filed and, thus, are not a narrowing amendment. The Examiner is respectfully requested to reconsider and withdraw the rejection(s) in view of the amendments and remarks contained herein.

PRIORITY CLAIM

The reference to the earlier provisional patent application stands objected to for certain informalities. Applicant has amended the specification according to the Examiner's suggestion. Therefore, reconsideration and withdrawal of this objection are respectfully requested.

REJECTION UNDER 35 U.S.C. § 101

Claims 23-46 stand rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. This rejection is respectfully traversed.

Applicant asserts that the Examiner's "two prong" test is inconsistent with current Federal Circuit case law. In particular, Applicant asserts that there is no technological arts requirement. Rather, the proper test is merely whether the claimed subject matter produces a useful, concrete and tangible result. In the present application, Applicant's invention provides an innovative system and method for analyzing airline flight information in relation to one or more predefined city pairs for a given airline customer. Determining market share data for a given city pair based on factors important to the airline customer yields a useful, concrete and tangible result that places the claimed subject matter within the realm of statutory subject matter.

Nonetheless, in order to expedite prosecution of this application, Applicant has amended Claims 23, 27, 30, 34, 38 and 44 to clarify that at least one of the process steps is performed by a software-implemented application, thereby meeting the technological arts requirement. Applicant has cancelled Claim 39, thereby electing to defer prosecution of this claim until the Patent Office's two prong test has been addressed by the Federal Circuit. Accordingly, Applicant respectfully requests the Examiner to reconsider and withdraw this rejection.

REJECTION UNDER 35 U.S.C. § 112

Claims 1-46 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point and distinctly claim the subject matter which Applicant regards as the invention. This rejection is respectfully traversed.

In accordance with the Examiner's suggestion, select claims have been amended to recite the term "market share" in place of the term "marketshare data". Applicant asserts that these terms have synonymous meaning and therefore does not constitute a narrowing amendment. Therefore, reconsideration and withdrawal of this rejection is respectfully requested.

REJECTION UNDER 35 U.S.C. § 102

Claims 1-46 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 5,897,620 (Walker). This rejection is respectfully traversed.

Walker is directed generally to a method for selling airline tickets. More specifically, a method is provided for selling an airline ticket which does not specify particular flight times at the time of purchase, but subsequently assigns the ticket to a scheduled flight based on a traveler-specified itinerary. Since Walker pertains to ticketing for a single airline, it does not disclose determining a market share for more than one airline. Moreover, Walker does not teach or suggest determining a market share based on an incremental travel time nor based on non-schedule related factors.

In contrast, Applicant's invention is directed generally to a system and method for analyzing airline flight information for a given airline customer. One aspect of the invention is to determine a market share for different airlines in relation to a one or

defined city pairs. For instance, Claim 1 recites “determine a fair market share for each airline in relation to each city pair of the predefined city pairs” in combination with other elements of the claim. For at least this reason, it is respectfully submitted that Claim 1, along with claims depending therefrom, defines patentable subject matter over Walker. Applicant notes that most of the other pending independent claims recite similar subject matter, and thus should be allowable, along with claims depending therefrom, for the same reasons as Claim 1.

Another aspect of the invention is to compute the market share of an airline based on an incremental travel time for the flights between a given city pair. For instance, Claim 27 recites “determining an incremental travel time for each flight serving the city pair” and “determining a fair market share ... based in part on the incremental travel time” in combination with the other elements of the claim. For this additional reason, pending claims reciting this aspect of the invention also define patentable subject matter of Walker. Accordingly, Applicant respectfully requests reconsideration and withdrawal of this rejection.

CONCLUSION

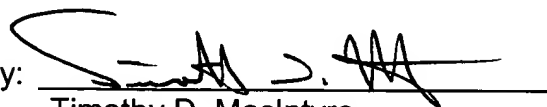
It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested.

If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: October 12, 2005

By:

A handwritten signature in black ink, appearing to read "Timothy D. MacIntyre", written over a horizontal line.

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